

No. 14/13/87-6Lab./940.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s K. C. Textile, Pandu Pindara (Jind) *versus* Ramesh Kumar.

IN THE COURT OF SHRI P. L. KHANDUJA, PRESIDING OFFICER, INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT, ROHTAK

Reference No. 124 of 1994

*between*

SHRI RAMESH KUMAR S/O SHRI BHALE RAM, VILLAGE AND P. O.  
GURANA, TEHSIL HANSI, DISTRICT HISAR, WORKMAN

*and*

THE MANAGEMENT OF M/S K. C. TEXTILE, PANDU PINDARA  
(JIND).

*Present :*

Workman in person.

Shri S. Kaushal, authorised representative for the management.

**AWARD**

1. In exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana, has referred the following dispute, between the parties mentioned above to this court, for adjudication,—*vide* Labour Department Endorsement No. L.D./Hisar/Bhi/13—90/9970—75, dated 7th March, 1990 :—

Whether the services of Shri Ramesh Kumar have been terminated or he has left the services by remaining absent ? To what relief he is entitled after decision on this point ?

2. The workman and the management were summoned. The workman appeared and filed his statement of claim that he was employed in K. C. Textile Mills, Pandu Pindara (Jind) on 1st February, 1987 as Doffer and became the workman as defined under the Industrial Disputes Act. The applicant had felt sick in the month of September, 1989 and of which the intimation had been also given to the Factory Manager and the workman remained under treatment w. e. f. 15th September, 1989 to 24th September, 1989. On 25th September, 1989 the workman requested the respondent to take him on duty and he may please be granted medical leave for ten days from 15th September, 1989 to 24th September, 1989 but in vain. When the workman find no other alternative except to approach the Labour Inspector, Jind. The management had not appeared before the Labour Inspector and services of the workman discontinued w. e. f. 15th September, 1989 by striking off his name from the rolls and by preventing him from doing his duty on recovery of illness. The workman joined on 2nd January, 1987 and worked as such regular without any break. The workman was not paid wages for the period from 1st September 1989 to 15th September, 1989. The workman had served for more than 2½ years continuously as such he could not be removed from job unless paying of notice pay or retrenchment compensation etc. as required under Section 25-F of the Industrial Disputes Act. Hence claim statement was filed.

3. The written statement filed by the respondent that the workman had submitted his resignation from employment of his own, hence, there is no industrial dispute which require any adjudication. The reference is not competent. Even otherwise the workman never worked for 240 days within the year. It is denied that the applicant was removed from job and the workman never worked for 240 days in a year as to entitle him the benefits of claim. Hence no cause of action even on 15th September, 1989 or 25th September, 1989 and hence the claim statement is dismissed.

4. Replication was filed by the workman. On the pleadings of the parties, the following issues were framed :—

(1) As per terms of reference ?

(2) Whether the workman submitted any resignation ? If so, to what effect ?

## (3) Relief.

5. My findings on the above issues with reasons thereof are as under :—

## Issue Nos. 1 and 2 :

6. Both these issues being inter connected are being taken together for disposal.

7. The workman has come into witness box as WW-1 and closed the evidence. The management has examined Shri Anil Kumar as MW-1 and also examined Shri Dharam Chand Jain, Factory Manager as MW-2 and closed the evidence.

8. The statement of Dharam Chand Jain that the workman had come himself to him with the resignation Ex. MW-1/1 and was accepted in his presence. The workman signed the resignation letter and after that workman never come to the indutry to do the work. Anil Kumar MW-1/1 has made statement that petitioner had submitted his resignation which is Ex. MW-1 and after that the workman/petitioner never come to the factory to do the work and the management has not terminated his services. He has not been suggested that the workman had not given the resignation or the resignation letter being put up is fictitious. Dharam Chand Jain MW-2 also did not put the question that the workman was forced to give resignation as pleaded by the workman in the replication.

9. In view of the above evidence of the respondent which is unopposed. It is proved that the workman himself given the resignation and the reference petition is not maintainable, so I decide both these issues in favour of the management and against the workman.

## Issue No. 3 (RELIEF) :

10. In view of my findings on the above issues. I find that the reference is not maintainable and I dismiss the reference petition. The reference is answered and returned accordingly, the parties are left to bear their own costs.

Dated the 11th November, 1994.

P. L. KHANDUJA,

Presiding Officer,

Industrial Tribunal/Labour Court,  
Rohtak.

Endorsement No. Ref. 124-94/2846, dated the 11th November, 1994.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh.

P. L. KHANDUJA,

Presiding Officer,

Industrial Tribunal/Labour Court,  
Rohtak.

The 29th November, 1994

No. 14/13/87-6Lab./946.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar in respect of the dispute between the workman and the management of Transport Commissioner, Haryana, Chandigarh *versus* Jagdish Singh.

BEFORE SHRI B. R. VOHRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT, HISAR

Reference No. 651 of 90

Date of receipt .. 25-7-1989

Date of decision .. 2-11-1994

SHRI JAGDISH SINGH, S/O FATEH SINGH, VILLAGE MITHATHAL,  
TEH. & DISTT. BHIWANI

.. Applicant

*versus*

(1) TRANSPORT COMMISSIONER, HARYANA, CHANDIGARH;

(2) GENERAL MANAGER, HARYANA ROADWAYS, BHIWANI

.. Respondent mgt.

Present :

Shri Chetan Anand, for the workman.

Shri Jagdish Pawar, for the management.

## AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (for short, 'the Act'), the Governor of Haryana referred the following dispute between Jagdish Singh and the above-mentioned management for adjudication to this Court,—*vide* Labour Department, letter No. Bwn/123-89/29658—64, dated 11th July, 1989 :—

Whether termination of services of Jagdish Singh, Conductor is justified and in order? If not, to what relief, is he entitled?

2. The workman was appointed as Conductor by the management on 21st February, 1977. On the allegation that the workman had misappropriated a sum of Rs. 10, he was served with a charge-sheet on 22nd October, 1981 and after his reply was considered unsatisfactory, domestic enquiry was ordered and Enquiry Officer was appointed. After the receipt of the report of Enquiry Officer, the services of the workman were terminated,—*vide* order dated 17th August, 1983. The workman raised demand notice and contended that the enquiry conducted against him was in violation of principle of natural justice and was an eye wash. He, therefore, prayed for reinstatement with full back wages and continuity of service.

3. The management, in its written statement, pleaded that the enquiry conducted against the workman was fair and proper and that he was afforded opportunity to cross-examine the witness and to lead his defence and that as the charge of embezzlement stood proved against him, his services were rightly terminated. Several preliminary objections were also raised, as they are reflected in the following issues framed on 8th June, 1990 by my learned predecessor :

- (1) As per reference.
- (2) Whether the management conducted a fair and just enquiry against the workman? If so, to what relief?
- (3) Whether the reference is bad on account of delay etc.?
- (4) Whether the management has lost confidence in the workman?
- (5) Whether the reference is not maintainable?
- (6) Relief.

4. Issue No. 2 regarding domestic enquiry was treated as preliminary issue and,—*vide* award-1, this issue was answered against the management on 24th August, 1994 and it was held that there had been clear violation of principle of natural justice. The management was, thereafter, called upon to lead evidence to prove misconduct of the workman, on merits.

5. The management, however, did not lead any evidence on merits and for the reasons best known to the management, Shri Jagdish Pawar, ADA of the management, *vide* his statement recorded on 16th September, 1994, closed the case of the management, by stating that he did not want to lead any evidence on behalf of the management, on merits of the case.

6. I have heard Shri Chetan Anand, authorised representative of the workman and Shri Jagdish Pawar, ADA of the management and have gone through the case file. My findings on remaining issues, are as under :

Issue No. 1 :

7. As already stated above, the domestic enquiry conducted against the workman had already been held defective and not fair. Despite that, it is surprising to note that the management did not choose to lead any evidence to prove misconduct of the workman. It is admitted case that the workman was in service with the management since 21st February, 1977 and his services were terminated on 17th August, 1983 without payment of any retrenchment compensation. The domestic enquiry having been held to be bad, it is obvious that the termination of services of the workman is illegal being in violation of the provisions of the Act and the workman is entitled to reinstatement.

8. As regards back wages, it is to be noted that though the services of the workman were terminated on 17th August, 1983, he raised the demand notice in the year 1989 (date not given) and since the reference was made by the State Government,—*vide* letter dated 11th July, 1989, the workman would be entitled to back wages from that date onwards. The workman shall, however, be entitled to all consequential benefits, as permissible under law. The issue is answered accordingly.

Issue Nos. 3, 4 & 5 :

9. All these issues were not pressed by the authorised representative of the management and were conceded to by him during arguments. All these issues were answered against the management.

**Issue No. 6 Relief :**

10. In view of my findings on the above issues, the termination of services of the petitioner is held illegal. The same is hereby set-aside. The petitioner is reinstated in the same post forthwith, with benefit of continuity of service and other consequential benefits. The petitioner shall not be paid any back wages from 17th August, 1983 to 10th July, 1989. He shall be entitled to full back wages with effect from 11th July, 1989 (the date of reference) onwards. The reference is answered accordingly, with no order as to costs.

**B. R. VOHRA,**

The 2nd November, 1994.

Presiding Officer,  
Industrial Tribunal-cum-Labour Court,  
Hisar.

Endorsement No. 2331, dated the 7th November, 1994.

A copy, with spare copy, is forwarded, to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh for necessary action.

**B. R. VOHRA**

Presiding Officer,  
Industrial Tribunal-cum-Labour Court,  
Hisar.

The 6th December, 1994

No. 14/13/87-6Lab./952. -In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court-II, Faridabad in respect of the dispute between the workman and the management of M/s Diamond Engineering Works, Faridabad *versus* Sanjay Panday.

IN THE COURT OF SHRI U. B. KHANDUJA, PRESIDING OFFICER,  
LABOUR COURT-II, FARIDABAD

Reference No. 730/93

*between*

THE MANAGEMENT OF M.S DIAMOND ENGINEERING WORKS, PLOT NO. 5C,  
SECTOR-4, FARIDABAD

*versus*

THE WORKMAN, NAMELY, SHRI SANJAY PANDAY C/O SHRI SUBHASH SHARMA  
SECTOR-22, HANUMAN MANDIR, FARIDABAD

*Present :*

None.

**AWARD**

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (here in after referred to as "the Act"), the Governor of Haryana referred the following dispute, *between* the parties, mentioned above, to this Court, for adjudication,—*vide* Haryana Government Endst. No. 4638—86, dated 1st December, 1993 :—

Whether termination of services of Shri Sanjay Panday is legal and justified ? If not, to what relief is he entitled to ?

2. Notices sent to both the sides under ordinary cover as well as under registered cover have not been received back undelivered. None is present from both the sides. In the circumstances, the court is left with no option but to pass no claim award and it is passed accordingly.

**U. B. KHANDUJA,**

The 16th November, 1994.

Presiding Officer,  
Labour Court-II,  
Faridabad.

Endorsement No. 3230, dated the 21st November, 1994.

A copy with three spare copies is forwarded to the Financial Commissioner and Secretary to Government of Haryana, Labour Department Chandigarh.

U. B. KHANDUJA,

Presiding Officer,  
Labour Court-II,  
Faridabad.

The 12th December, 1994

No. 14/13/87-6Lab./955.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court-II, Faridabad in respect of the dispute between the workman and the management of M/s Rangoli Textiles Mills, Faridabad *versus* Ram Nath.

IN THE COURT OF SHRI U. B. KHANDUJA, PRESIDING OFFICER,  
LABOUR COURT-II, FARIDABAD

Reference No. 166/94

*between*

THE MANAGEMENT OF M/S RANGOLI TEXTILES MILLS, PLOT NO. 436, BHAKADI,  
FARIDABAD

*versus*

THE WORKMAN NAMELY SHRI RAM NATH S/O SHRI UMA KANT MISHRA, C/O  
HIND MAZDOOR KISAN PANCHAYAT, 0/3 LINK ROAD, SECTOR-28,  
FARIDABAD

*Present :*

None.

#### AWARD

In exercise of the powers conferred by Clause (c) of sub-section (1) of section 10 of the Industrial Dispute Act, 1947, (here-in-after referred to as 'the Act'), the Governor of Haryana referred the following dispute, between the parties, mentioned above, to this Court for adjudication, —*vide* Haryana Govt. Bd. No. 24000—05 dated 22nd June, 1994:—

Whether the termination of services of Shri Ram Nath is legal & justified? If not, to what relief is he entitled to ?

2. None is present despite the fact that notices were sent to both the parties twice under registered covers and the same have not been received back undelivered. It can be informed that the same were received by them. In the circumstances, there is no option but to pass no claim award and it is passed accordingly. File be consigned to the record.

The 11th November, 1994.

U. B. KHANDUJA,

Presiding Officer,  
Labour Court-II,  
Faridabad.

Endorsement No. 3195, dated the 11th November, 1994.

A copy with three spare copies is forwarded to the Financial Commissioner and Secretary to the Government, Haryana, Labour Department, Chandigarh.

U. B. KHANDUJA,

Presiding Officer,  
Labour Court-II,  
Faridabad.